

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sheena Otto	Team: Team # 1	CCRB Case #: 200303229	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/04/2003 12:55 PM	Location of Incident: in front of § 87(2)(b)	Precinct: 40	18 Mo. SOL 11/4/2004	EO SOL 11/4/2004	
Date/Time CV Reported Sun, 05/04/2003 3:33 PM	CV Reported At: Other NYPD unit	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 05/04/2003 3:33 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ramon Vilaseca	03518	914517	H VANDL
2. POM Roberto Veloz	00099	923310	HB SPEC
3. LT John Dadamo	00000	913627	HB SPEC
4. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM Ramon Vilaseca	Abuse: PO Ramon Vilaseca stopped and questioned § 87(2)(b)	
B.POM Roberto Veloz	Abuse: PO Roberto Veloz stopped and questioned § 87(2)(b)	
C.POM Ramon Vilaseca	Force: PO Ramon Vilaseca used physical force against § 87(2)(b)	
D.POM Ramon Vilaseca	Force: PO Ramon Vilaseca used physical force against § 87(2)(b)	
E.POM Roberto Veloz	Force: PO Roberto Veloz used physical force against § 87(2)(b)	
F.LT John Dadamo	Force: Lt. John Dadamo used physical force against § 87(2)(b)	
G. Officers	Force: Officers used physical force against § 87(2)(b)	
H.POM Ramon Vilaseca	Force: PO Ramon Vilaseca used pepper spray against § 87(2)(b)	

Synopsis

On May 4, 2003, at approximately 12:55 PM, § 87(2)(b) was walking from § 87(2)(b) to § 87(2)(b), holding a pair of pants under his arm. According to Officers Veloz and Vilaseca they observed § 87(2)(b) conceal an unknown object in the pair of pants, and stopped him to investigate (allegations A & B). § 87(2)(b) stated that he became loud and boisterous in order to get the attention of his neighbors so they could be witnesses to what he felt was unjust harassment by the police. § 87(2)(b) § 87(2)(b)'s brother, claimed that PO Vilaseca pushed him away when he tried to intervene on § 87(2)(b)'s behalf (allegation C). With the aid of Lt. Dadamo and other responding officers, Officers Veloz and Vilaseca arrested § 87(2)(b) for § 87(2)(b) (allegations D – G). PO Vilaseca used his pepper spray during the arrest in order to subdue § 87(2)(b) (allegation H).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary

§ 87(2)(b) § 87(2)(b) filed a complaint at PSA 7 on May 4, 2003 at 2:45 PM (encl. 7 – 7G) about an incident that occurred earlier that day at approximately 1:00 PM. He complained that police officers searched his brother, § 87(2)(b) and used pepper spray against him. He further complained that these officers used physical force and pepper sprayed himself, and pepper sprayed § 87(2)(b)'s wife, § 87(2)(b) § 87(2)(b) was subsequently arrested.

§ 87(2)(b) was interviewed at the CCRB on May 27, 2003 (encl. 10 – 10C). He stated that he was in a friend's apartment when § 87(2)(b) stopped by to retrieve a pair of pants that § 87(2)(b) § 87(2)(b)'s other brother had borrowed. § 87(2)(b) left after retrieving the pants. § 87(2)(b) was supposed to meet his wife outside at 1:30 PM, but something told him to go outside earlier; he noticed the time was approximately 1:00 PM. § 87(2)(b) was waiting for the elevator on the fourth floor when he heard § 87(2)(b) yelling outside. § 87(2)(b) exited the building and saw a black van, which he knows to be a police van because he sees it around the neighborhood all the time, drive by and stop at the end of the block. The two officers inside the van began to talk to § 87(2)(b) § 87(2)(b) was yelling and screaming at the officers, and they were yelling back at him. § 87(2)(b) was yelling that he didn't do anything, and was demanding to know why they were stopping him. § 87(2)(b) § 87(2)(b) did not know at first that the two men were officers because they were wearing civilian clothes. As he approached them the two officers looked at him. § 87(2)(b) asked § 87(2)(b) what was going on, and § 87(2)(b) replied, "They're messing with me," and "I don't know why they ran up on me." § 87(2)(b) also told § 87(2)(b) that the officers wanted his identification. § 87(2)(b) § 87(2)(b) realized at that point that the two men were police officers. § 87(2)(b) extended his hand and introduced himself, but PO Vilaseca gave him a blank stare and looked past him. PO Veloz asked PO Vilaseca, "Should we call it in?" PO Vilaseca stepped aside and used his radio. § 87(2)(b) asked what was going on, but PO Vilaseca did not answer him.

§ 87(2)(b) told § 87(2)(b) that § 87(2)(b) was bringing his identification downstairs so that they would leave him alone. He also told § 87(2)(b) that the officers stopped him when he had the pair of pants on his arm, "ran up on" him, grabbed him and threw him against the gate. They began searching him, but did not give him any explanation. He told § 87(2)(b) that the officers told him that they saw him put something in the pants he was holding, but § 87(2)(b) said he didn't have anything in the pants.

As § 87(2)(b) spoke with § 87(2)(b) the officers told him that § 87(2)(b) needed to calm down, stop yelling, and stop cursing. § 87(2)(b) told them that he wasn't cursing, but he was angry that they grabbed him and pushed him with no explanation. He further stated that at first he didn't know that they were police officers, and they can't just "run up" on people. § 87(2)(b) then asked the officers what would have happened if he had punched them in their faces because they didn't look like officers.

§ 87(2)(b) exited building § 87(2) with § 87(2)(b)'s identification. PO Vilaseca also returned after stepping away, and he was now shaking his canister of pepper spray. § 87(2)(b) stepped in front of PO Vilaseca and asked what was going on. PO Vilaseca pushed § 87(2)(b) to the side and told him to mind his own business. § 87(2)(b) responded that § 87(2)(b) was his brother, and asked, "Who are you guys? I don't even know if you all are police or not. I don't see any badges." PO Vilaseca then pulled out his badge and said, "You need to mind your business" and pushed § 87(2)(b) back again against the gate. § 87(2)(b) responded, "Sir, stop pushing me."

Three or four other cars pulled up, and PO Veloz grabbed § 87(2)(b)'s arm to try and restrain him. § 87(2)(b) called out "Get off me!" Two or three other officers rushed over and grabbed § 87(2)(b) and tried to flip him over. § 87(2)(b) tried to get in the middle to "break that up" and PO Vilaseca pushed him back against the wall and said, "I told you to mind your business." PO Vilaseca had § 87(2)(b) by his collar, and § 87(2)(b) kept asking what was going on.

More cars pulled up on the scene, both marked and unmarked, and about 8 officers "jumped on" § 87(2)(b). § 87(2)(b) kept trying to get the officers off of him, and he was yelling "Get off me!" § 87(2)(b) was struggling, and was trying to get up. One officer grabbed § 87(2)(b)'s leg, and another officer had his foot on § 87(2)(b)'s back, near the top of his neck. § 87(2)(b) pushed that officer and asked, "Why are you stepping on his back like that?" Another officer, possibly PO Vilaseca, came and pushed § 87(2)(b) stating "You need to mind your business" and was shaking his pepper spray as if he intended to use it. § 87(2)(b) came in the middle and said, "Let him go," and then covered her face with her hands as if she felt pepper spray in her eye. She started backing up, and was screaming and crying. § 87(2)(b) was trying to get between the officers and § 87(2)(b). He was pushing the officers and yelling at them to get off of § 87(2)(b) because § 87(2)(b) had not done anything. PO Vilaseca then grabbed § 87(2)(b) by his collar, held him up against the fence and repeated, "I told you to mind your business."

§ 87(2)(b) stopped fighting. He was handcuffed and said that they had no reason to arrest him. § 87(2)(b) approached the two officers who were escorting § 87(2)(b) to the van, and he asked them for their names and shield numbers. PO Vilaseca gave his name and showed him his shield. A lieutenant came over to § 87(2)(b) identified himself as the supervising lieutenant for the two officers, and told § 87(2)(b) that they were taking § 87(2)(b) to the 40th precinct and if he had any questions he should meet them at the precinct.

§ 87(2)(b) and § 87(2)(b) went to the precinct and spoke to the lieutenant. § 87(2)(b) then saw PO Vilaseca in the stationhouse. He said he wanted to press charges against PO Vilaseca. The lieutenant kept saying that it was a misunderstanding, but did not prevent him from filing a complaint. § 87(2)(b) filed a civilian complaint at that time at PSA 7.

§ 87(2)(b) stated that PO Vilaseca did not pepper spray him directly, and explained that while officers were jumping on § 87(2)(b) and § 87(2)(b) was trying to pull them off him, PO Vilaseca was trying to spray § 87(2)(b) and sprayed § 87(2)(b) instead.

Results of Investigation

§ 87(2)(b) was interviewed by this agency on July 9, 2003. His brother § 87(2)(b) occasionally stays at § 87(2)(b), which is the building that neighbors § 87(2)(b)'s building at § 87(2)(b). § 87(2)(b) sometimes borrows § 87(2)(b)'s clothes when he stays at the neighboring building; § 87(2)(b) had borrowed a pair of § 87(2)(b)'s pants prior to May 4, 2003. § 87(2)(b) went to § 87(2)(b) on May 4, 2003 in order to retrieve the pair of pants he had lent to § 87(2)(b).

After collecting his pants and leaving the building, § 87(2)(b) saw a black van drive by. He knew they were police officers, but he didn't pay special attention to them because he is used to seeing these vans patrolling the area. The van stopped and PO Vilaseca got out of the van and displayed his shield, #8319. He grabbed § 87(2)(b) by his arm and threw him against a gate. There was another officer on § 87(2)(b)'s other side who had shield number 99, subsequently identified as PO Veloz. § 87(2)(b) asked them, "What the fuck do you think you're doing?" § 87(2)(b) was yelling, because he wanted his neighbors to know that something was going on outside and he wanted witnesses in case "anything happened." There was no one else out on the street at this time because it was early on a Sunday. PO Veloz asked § 87(2)(b) where he lived. § 87(2)(b) told him that he lived in

“this building” pointing to § 87(2)(b). PO Vilaseca was holding his pepper spray. PO Veloz asked § 87(2)(b) if he had ID on him, and he said he did not, but he could call upstairs for it. § 87(2)(b) called up to his window twice, and his wife, § 87(2)(b) came to the window. § 87(2)(b) asked her to bring his identification downstairs.

§ 87(2)(b) came downstairs and asked what was going on. § 87(2)(b) introduced himself to PO Veloz, but PO Veloz looked past him. § 87(2)(b) began talking to § 87(2)(b) cursing and yelling about how the cops were bothering him and had nothing better to do. § 87(2)(b) still had not come downstairs at this time. § 87(2)(b) was yelling up towards the window, telling § 87(2)(b) to hurry up. PO Veloz warned § 87(2)(b) that if he kept talking as he was, then he would take him down to the station. § 87(2)(b) responded, “If you put your hands on me again for no reason, I’m gonna punch you in your face, and I’m gonna punch you in your face,” addressing both officers.” PO Vilaseca walked away and called for back up.

A lieutenant approached, identified through the investigation as Lt. Dadamo. Lt. Dadamo didn’t ask § 87(2)(b) what was wrong; he only spoke to Officers Veloz and Vilaseca. § 87(2)(b) brought § 87(2)(b)’s wallet at this time and gave it to him. § 87(2)(b) showed the officers his identification, but PO Vilaseca slapped it out of his hands. Officers Veloz and Vilaseca began walking § 87(2)(b) to the van, but he stopped walking and asked what was going on. PO Vilaseca pushed § 87(2)(b) out of the way and told him to stand back. Lt. Dadamo and PO Vilaseca grabbed § 87(2)(b)’s arms. Lt. Dadamo stuck his foot in front of § 87(2)(b) as if he was going to trip him. § 87(2)(b) began struggling with Lt. Dadamo and PO Vilaseca. A crowd of other officers rushed § 87(2)(b) when he began struggling. He felt punches and hits on his lip, his head and his sides. § 87(2)(b) was trying to push up from the ground, but did not throw any punches.

§ 87(2)(b) was wearing a hooded shirt, and his hood came over his face when they threw him to the floor. When they picked him up, an officer tried to pepper spray him, but his hood blocked the spray from entering his eyes. § 87(2)(b) could hear § 87(2)(b) yelling. He stopped struggling when he heard her calling out his name. PO Vilaseca came down to the ground and sprayed the pepper spray directly into § 87(2)(b)’s eyes. § 87(2)(b) was handcuffed and taken to the precinct.

PO Vilaseca told him, “You can’t talk to police like that.” § 87(2)(b) stated that if they had approached him, addressed him politely, and asked for his identification, then he would have no reason to address the officers the way he did. The officers explained that there’s a lot of violence in that area, and that they were wrong, but pointed out that § 87(2)(b) had threatened them. § 87(2)(b) denied threatening them, stating that he was only talking to his brother while he was upset. He admitted that he became angry when the officers told him that they would arrest him if he didn’t shut up, which is when he said that he would punch the officers in their faces if they put their hands on him.

§ 87(2)(b)’s criminal defense attorney told him that he was arrested for § 87(2)(b), and the report stated that he tried to conceal a weapon in his pants; § 87(2)(b) pointed out that the officers never asked for his pants. When the officers pulled up in the van they asked what was in his hand. § 87(2)(b) held up a pair of folded blue jeans for the officers to see. The pants did not come unfolded when he held them up. This is when PO Vilaseca jumped out of the van and ran up to him and pushed him against the gate.

§ 87(2)(b)
§ 87(2)(b) § 87(2)(b)’s wife, also filed a complaint at PSA 7 on May 4, 2003, stating that she had been hit with pepper spray while § 87(2)(b) was being arrested. § 87(2)(b) was interviewed by this agency on May 27, 2003. She was in her apartment at § 87(2)(b) when she heard § 87(2)(b) call to her through the window: he was asking her to bring his ID downstairs. She looked outside and saw § 87(2)(b) and two other men, identified through the investigation as Officers Veloz and Vilaseca, with him. PO Veloz was holding § 87(2)(b) by his arm near his wrist. PO Veloz released § 87(2)(b) by the time § 87(2)(b) arrived downstairs with the identification.

§ 87(2)(b) was asking them why they stopped him, and was upset because they grabbed him. § 87(2)(b) handed § 87(2)(b) his identification and he showed it to the officers. PO Vilaseca knocked § 87(2)(b)’s identification out of his hand, causing it to fall to the ground.

Other officers arrived and jumped on § 87(2)(b). § 87(2)(b) began backing up, asking why they were grabbing him, and insisted that he didn’t do anything. Officers grabbed him and attempted to throw him to the ground; a lieutenant tried to trip § 87(2)(b) but § 87(2)(b)

jumped back. PO Vilaseca tried to pepper spray § 87(2)(b) but the spray hit § 87(2)(b)'s hood instead. § 87(2)(b) was hit with the spray because she was standing behind § 87(2)(b). § 87(2)(b) told § 87(2)(b) to calm down, and at some point she saw officers stepping on § 87(2)(b)'s back. She also said that she did not see very much after she was pepper sprayed, but she was still calling out to § 87(2)(b) and telling him to calm down. She could hear § 87(2)(b) saying, "Get off me," and asking what was going on. § 87(2)(b) was taken to the precinct. A neighbor, known to § 87(2)(b) as § 87(2)(b), who lives on the § 87(2)(b) helped § 87(2)(b) flush out her eyes. § 87(2)(b) went to the hospital the next day due to her exposure to the pepper spray.

Investigative Actions

A canvass of § 87(2)(b) Street was conducted on July 28, 2003. After speaking with residents who were home at the time of the canvass, letters were left for residents who did not answer their doors, and letters were also posted near the mailboxes and entrance to the building. All residents who were home at the time of the canvass either did not witness the incident, or stated that they did witness the incident but refused to make a statement.

§ 87(2)(b), one of the building managers who works for the New York City Housing Authority, said that there is a janitor assigned to each building, and the janitor assigned to building § 87(2)(b) on May 4, 2003 was § 87(2)(b). § 87(2)(b) also happened to be working at the time of the canvass, but stated that he did not witness § 87(2)(b)'s arrest.

PO Roberto Veloz

PO Veloz was interviewed at the CCRB on September 22, 2003. He worked an overtime patrol assignment from 12:00 PM until 8:00 PM on May 4, 2003. He was in plain clothes with PO Vilaseca in a black unmarked van assigned RMP number § 87(2)(b). He had the following memo book entries regarding this incident:

"1255 subject stop f/o § 87(2)(b). Perp did become loud and boisterous w/us by yelling and threatening us and causing a large crowd to form at location. While trying to discon perp and arrest him perp did push and swing arms and fist towards us in order to avoid being cuffed perp was maced. 1 under by PO Vilaseca."

Officers Veloz and Vilaseca were on routine patrol, patrolling an area that is known to be a drug and gun prone area. They were driving down the street when they observed § 87(2)(b) walking and holding a pair of pants in his left hand. He was also holding a black object in his right hand, but they could not tell what it was. The object could have been some kind of weapon. After seeing the officers, § 87(2)(b) took the object and "rolled" it into the pants, making the officers suspicious. They approached § 87(2)(b) asked him what he stuffed into the pants, and asked to see the pants. § 87(2)(b) immediately began yelling and screaming towards the building, calling for his wife to come downstairs. A crowd started to gather and started yelling things at the officers. § 87(2)(b) began yelling and threatening the officers, stating that if they touched him then he would "kick [their] ass[es]," and demanded that they leave him alone. Although he did not know what object § 87(2)(b) was trying to conceal, PO Veloz felt safe as long as he had sight of § 87(2)(b)'s hands. If the object turned out to be a weapon, § 87(2)(b) would not be able to use it against the officers if PO Veloz could see his hands. § 87(2)(b) used one arm to grip the pants and his other arm to point and gesture at the officers. PO Veloz does not remember if they asked § 87(2)(b) for his identification.

§ 87(2)(b)'s brother, § 87(2)(b) came downstairs and spoke with PO Veloz. PO Veloz explained to § 87(2)(b) that they only wanted to see what was in the pants. § 87(2)(b) still did not surrender the pants. PO Veloz thinks that he and PO Vilaseca may have told § 87(2)(b) that he would be arrested if he did not calm down. Officers Veloz and Vilaseca decided to arrest him for disorderly conduct because there were too many people on the scene, § 87(2)(b) was making too many threats, and it had become a safety issue for the officers. PO Vilaseca called for backup.

PO Veloz stepped in front of § 87(2)(b) and explained that he was going to have to come to the stationhouse. § 87(2)(b) shoved PO Veloz aside and a struggle ensued. PO Veloz was attempting to put § 87(2)(b)'s hands behind his back in order to handcuff him. § 87(2)(b) was twisting, turning, and swinging at the officers, thus making it impossible for the officers to get § 87(2)(b)'s hands behind his back.

PO Veloz could smell pepper spray in the air, and he felt slightly affected by it. PO Vilaseca later told PO Veloz that he had used his pepper spray. Officers Veloz and Vilaseca took § 87(2)(b) to

the ground, and held him until other officers arrived, which was shortly afterwards. The only other responding officer that PO Veloz recognized was Lt. Dadamo. He thinks Lt. Dadamo might have assisted with the arrest. PO Veloz tried to hold § 87(2)(b) by his waist while other officers attempted to pull his arms behind his back. The officers were eventually able to handcuff § 87(2)(b) and place him in the van. They left the scene quickly because of the safety concerns of the officers. PO Veloz scanned the area quickly for the pair of pants that § 87(2)(b) had been carrying, but they were nowhere to be found.

PO Veloz also stated that § 87(2)(b) got “involved” with § 87(2)(b)’s arrest, and explained that § 87(2)(b) was screaming and yelling at the site of the arrest, but does not remember if § 87(2)(b) was ever physically involved.

PO Ramon Vilaseca

PO Vilaseca was interviewed at the CCRB on September 22, 2003. He worked an overtime patrol assignment from 12:00PM until 8:00 PM on May 4, 2003 in plain clothes with PO Veloz. He had the following memo book entries regarding this incident:

“1255 observed deft § 87(2)(b) § 87(2)(b) § 87(2)(b) NY SS# § 87(2)(b) f/o § 87(2)(b) While patrolling Patterson HS, observed Deft placing a possible unk object/weapon into a pair of pants he was carrying. Upon approaching deft to inquire what object it was Deft became very loud, boisterous and violent by threatening to hit a/o. Perp refused to be handcuff by fighting w/a/o and partners. Perp did fall to ground. A/o did mace perp to overcome assault.”

PO Vilaseca’s statement was largely consistent with PO Veloz’ statement. They were patrolling the Patterson Houses when they saw § 87(2)(b) walking with a pair of pants in one hand, and a black object in his other hand. They displayed their shields, identified themselves as police officers, and stopped § 87(2)(b) § 87(2)(b) concealed the object in the pair of pants he was carrying. The officers asked to see the object, but § 87(2)(b) refused and started to walk away. PO Veloz stopped him and again requested to see what he had put into the pants. § 87(2)(b) became loud and boisterous, complaining that he had already been stopped two or three times that week. He also began calling up to his window for his wife to bring down his identification, and complained that the officers could not stop him.

§ 87(2)(b)’s wife and brother came downstairs and asked what was wrong. PO Vilaseca explained that they wanted to know what object § 87(2)(b) had concealed in the pair of pants he was holding. § 87(2)(b) still refused to cooperate, and was trying to leave. He began threatening PO Veloz, stating that he was going to punch him if they laid a hand on him. § 87(2)(b) then pushed past PO Veloz and bumped into him with his shoulder. PO Veloz interpreted this action as intentional and stated to PO Vilaseca, “He’s gotta go,” meaning that they should arrest § 87(2)(b) for disorderly conduct.

PO Veloz grabbed § 87(2)(b)’s arm, and § 87(2)(b) threw the pants to the ground. § 87(2)(b) began to flail his arms. PO Vilaseca pepper sprayed § 87(2)(b) and they brought § 87(2)(b) down to the ground. PO Vilaseca also called for back up on the radio. They placed § 87(2)(b) under arrest and took him to PSA 7. They were not able to recover the object or pants because the pants were gone by the time § 87(2)(b) was handcuffed.

Under questioning, PO Vilaseca stated that he asked § 87(2)(b) for his identification, because their initial intent was not to arrest him. They made the decision to arrest § 87(2)(b) after he pushed PO Veloz. PO Vilaseca then stated that they asked for his identification when they were about to arrest him, because they were going to arrest him for disorderly conduct. It was at this point that § 87(2)(b) called up to his wife for his identification. PO Vilaseca speculated that § 87(2)(b) began calling his wife for his identification because he thought he was going to get a summons, but the officers already decided to arrested him because he bumped into PO Veloz.

§ 87(2)(b) was already struggling with Officers Veloz and Vilaseca by the time his wife and brother were downstairs. § 87(2)(b) was flailing his arms and attempting to walk away from the officers as they tried to arrest him; § 87(2)(b) threw the pair of pants to the ground during the struggle. It was at this point that PO Vilaseca requested backup, and then used his pepper spray on § 87(2)(b). It was also at this point when § 87(2)(b) and § 87(2)(b) arrived downstairs. § 87(2)(b) had § 87(2)(b)’s wallet, and both she and § 87(2)(b) were asking why § 87(2)(b) was getting arrested. PO Vilaseca told them that § 87(2)(b) was being arrested for disorderly conduct because of his loud and boisterous behavior. § 87(2)(b) continued to struggle and push away from Officers Vilaseca and Veloz, making it impossible for them to handcuff him.

Officers Vilaseca and Veloz were able to put § 87(2)(b) on the ground. PO Vilaseca put his leg in front of § 87(2)(b) causing him to trip. § 87(2)(b) was still struggling, so PO Vilaseca pepper-sprayed § 87(2)(b) again while he was on the ground and made another attempt to place § 87(2)(b)'s arms behind his back. Other officers arrived, pulled PO Vilaseca away from § 87(2)(b) and handcuffed § 87(2)(b). PO Vilaseca did not assist any further with § 87(2)(b)'s arrest because he was feeling affected by the pepper spray; he remained, coughing, off to the side. Lt. Dadamo suggested that they leave the area because he did not want any additional problems due to the large crowd that had gathered. PO Vilaseca did not recover the pants from the scene because he could not find them.

PO Vilaseca brought the arrest paperwork with him to his CCRB interview. The medical treatment of prisoner report reflected that § 87(2)(b) refused medical attention at § 87(2)(b). They took § 87(2)(b) to the hospital because he said he couldn't breathe because of the pepper spray, but once they got to the hospital, he refused treatment. PO Vilaseca also brought the 250 he prepared, which was signed off on by Lt. Dadamo, and states that he observed § 87(2)(b) "putting unk[nown] object inside pant." It is also noted that § 87(2)(b) refused to identify himself, and that physical force was used against § 87(2)(b). The force noted is "hands on suspect," "handcuffing suspect," and "pepper spray." It is further noted that § 87(2)(b) was frisked, but not searched.

Lt. John Dadamo

Lt. Dadamo was interviewed at the CCRB on October 3, 2003. He worked in plainclothes from 12:00 PM until 8:35 PM on May 4, 2003 as the supervisor of approximately five officers from his command working an overtime tour. He did not have his memo book at the time of the interview, but remembered the incident.

Lt. Dadamo was driving on routine patrol when he heard one of his officers call for backup at § 87(2)(b). He believes he was the first one to respond to the request for backup, but other cars came after him. Lt. Dadamo and Officers Veloz and Vilaseca struggled to get § 87(2)(b)'s hands behind his back, and eventually had to put him on the ground in order to do so. He does not remember exactly how they brought him to the ground because it happened so quickly, but he thinks they may have all fallen to the ground with § 87(2)(b). He remembers smelling pepper spray when he got there, but doesn't think it was used while he was there. He does not remember if any civilians interfered with the arrest.

Lt. Dadamo does not remember if they took § 87(2)(b) to the hospital or to the stationhouse first, but knows that § 87(2)(b) was taken to § 87(2)(b) at some point after the arrest, where he remained for about thirty minutes before refusing medical treatment.

Lt. Dadamo asked Officers Vilaseca and Veloz what had happened after things had calmed down. They told him that they saw § 87(2)(b) carrying a pair of pants, and thought that he had concealed a weapon in the pants. When they approached him, they tried to ask § 87(2)(b) a few questions, but he became loud and boisterous. The officers decided to place him under arrest for disorderly conduct, and he began resisting arrest. PO Vilaseca told him that he used his pepper spray in an attempt to subdue § 87(2)(b). It was around this point when Lt. Dadamo arrived on the scene. Officers Vilaseca and Veloz told him that the pants were not recovered from the scene because they could not find them.

All of the parties interviewed stated that additional officers arrived on the scene. However, these officers were not interviewed. The additional officers were not present during the initial stop, and no one interviewed denies the use of force against § 87(2)(b). To interview the additional officers would be extraneous.

Medical Records

Medical records for § 87(2)(b) obtained from § 87(2)(b), reflect that an ambulance was called to 737 Melrose Avenue in the Bronx, PSA 7, at 1:13 PM on May 4, 2003. § 87(2)(b)'s information was recorded under the name "John Doe" because, according to EMT notes in his records, he refused to provide his name. The narrative of his "chief complaint" is, "[patient] verbally abusive, spitting, cursing, uncooperative." Much of § 87(2)(b)'s information is not recorded properly because it is noted in each section "p[atient] refused." The treatment and response narrative states that § 87(2)(b) had visible redness to his eyes, but patient assessment was not possible "due to violence, anger, cursing, spitting by [patient]." It also states "[patient] maced by PD due to [patient] resisting arrest, fighting PD." § 87(2)(b) further signed a "discharge against medical advice" form on May 4, 2003, stating that he was

refusing medical treatment. It is unknown when § 87(2)(b) s information was changed from “John Doe” to his own name.

§ 87(2)(b) returned to § 87(2)(b) on § 87(2)(b) at approximately § 87(2)(b). He complained of generalized body aches and soreness of his neck and arms after being handcuffed and “rough handled” by police. He also complained that he was “maced.” He was advised to take Motrin for his pain, and to seek further medical treatment if his conditions did not improve.

Medical records for § 87(2)(b) also obtained from § 87(2)(b), reflect that she sought medical treatment on § 87(2)(b), at approximately § 87(2)(b) complained that her husband had been “maced,” and some of the spray fell into her own eyes. There was no redness or irritation observed in her eyes; her vision was not blurred or otherwise affected. She was advised to apply Bacitracen to affected skin areas.

PD Documents

The OLBS for arrest number § 87(2)(b) § 87(2)(b) s arrest, states “§ 87(2)(b), § 87(2)(a) 160.50

” The arresting officer is listed as PO Vilaseca, and the supervising officer is listed as Lt. Dadamo (encl. 21 – 21B).

The narrative of the medical treatment of prisoner report states, “t/p/o above perp was maced to control perp during handcuffing. Perp R[efused] M[edical] A[ttention]. Lt. Dadamo signed off on this report. However, it is noted that § 87(2)(b) did not refuse medical aid in the field (encl. 20B).

Prior Bad Acts

§ 87(2)(b), § 87(2)(a) 160.50

Conclusions and Recommendations

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations A & B

§ 87(2)(b) alleged that Officers Veloz and Vilaseca frisked his brother § 87(2)(b) but admits that he was not present when this alleged frisk took place. § 87(2)(b) did not make any allegation that he was frisked, but did claim that Officers Veloz and Vilaseca stopped and questioned him. Therefore, allegations A and B have been pleaded as a stop and question allegation.

§ 87(2)(g)

A common law right to inquire is slightly more intrusive than a request for information, but does not make “a reasonable person feel that they are not free to leave.” § 87(2)(g)

In order to lawfully conduct a common law right to inquire, police officers need a founded suspicion that criminal activity is afoot. Officers Veloz and Vilaseca clearly had that in this case. § 87(2)(b) identified the officers and then immediately made a motion to hide an unknown object.

§ 87(2)(g)

Allegation C

§ 87(2)(b) alleged that PO Vilaseca pushed him away several times while he was trying to find out what was going on. § 87(2)(b) admitted that he was physically obstructing the officers from placing his brother under arrest. He stated that he tried to get in between the officers and his brother and pushed officers away from his brother as they tried to arrest him. Patrol Guide Procedure 203-11, which addresses the use of force, states, “use minimum necessary force.” § 87(2)(g)

Allegations D – G

§ 87(2)(g)

By his own admission, § 87(2)(b) said that he began yelling and screaming at the scene in order to attract the attention of his neighbors, so that they would witness the officers’ actions. Furthermore, § 87(2)(b) admitted that he threatened to punch both officers in their faces if they laid a hand on him. All parties involved agree that PO Vilaseca called for backup in order to arrest § 87(2)(b) which illustrates § 87(2)(b)’s persistent defiance. § 87(2)(b) and § 87(2)(b) both stated that § 87(2)(b) resisted arrest, because § 87(2)(b) did not feel that his actions justified an arrest. § 87(2)(g)

Disorderly conduct as defined by the penal law in § 240.20, states, “[a] person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture.” § 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation H

Although § 87(2)(b) and § 87(2)(b) both claim that they were also hit with pepper spray, neither felt that PO Vilaseca intended to hit them. They stated that they were hit as PO Vilaseca was attempting to spray § 87(2)(b) § 87(2)(g)

[REDACTED]

Patrol Guide Procedure 212-95 regarding the use of pepper spray states, “O.C. pepper spray may be used when a member reasonably believes it is necessary to effect an arrest of a resisting suspect...” § 87(2)(g)

§ 87(2)(g)

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: